

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES BROWN,

Plaintiff,

v.

S.H. WONG,

Defendant.

Case No. 2:20-cv-01673-JAM-JDP (PC)

ORDER DENYING PLAINTIFF'S MOTION
TO COMPEL THIRD PARTY

ECF No. 37

Plaintiff brought this action alleging that defendant violated his Eighth Amendment rights by failing adequately to treat certain foot issues. ECF No. 1 at 3. Pending before me is plaintiff's motion to compel a third party, California Department of Corrections and Rehabilitation, to photograph his feet. ECF No. 37.

As an initial matter, I stayed this action for one hundred and twenty days in my December 18, 2020 order that referred this case to the Post-Screening ADR (Alternative Dispute Resolution) Project. ECF No. 22 at 1. Plaintiff filed his motion to compel on April 9, 2021, ten days before that stay expired.¹ His motion to compel should be denied on that basis alone.

Additionally, plaintiff has not shown that a photograph of his feet taken today would be relevant to his claims. As defendant argues, he has not treated plaintiff since October 2020 and


¹ The settlement conference in this case is now set for June 10, 2021. ECF No. 44.

1 plaintiff has offered no argument or evidence that the current state of his feet has any probative
2 value. *See* Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any nonprivileged
3 matter that is relevant to any party’s claim or defense . . .”).

4 Accordingly, plaintiff’s third-party motion to compel, ECF No. 37, is denied without
5 prejudice.

6
7 IT IS SO ORDERED.

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9 Dated: June 10, 2021


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE